

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY GEORGETOWN IMMEDIATE

C O N F I D E N T I A L STATE 187026

EXDIS

E.O. 11652: GDS

TAGS: EINV, GY

SUBJECT: REYNOLDS

REF: (A) GEORGETOWN 1462; (B) GEORGETOWN 1473

1. OPIC KEEPS LLOYDS POSTED ON A REGULAR BASIS THROUGH ITS LONDON BROKER ON DEVELOPMENTS INVOLVING POSSIBLE CLAIMS AGAINST REINSURANCE. LLOYDS HAD ALREADY APPRISED HMG OF ITS INTEREST IN REYNOLDS GUYANA. OPIC CONTACTED BROKER FOLLOWING RECEIPT OF REF (A) AND INDICATED DETERIORATION OF SITUATION, ASKING FOR SUCH FURTHER EARLY STEPS AS LLOYDS DEEMS USEFUL. BELIEVE IT BEST TO TRUST TO LLOYDS JUDGMENT CONCERNING RECOURSE TO BRITISH GOVERNMENT CHANNELS.

2. REF (B) PARA 4 REPORTS BURNHAM STATEMENT THAT 1965 AGREEMENT WITH REYNOLDS AUTHORIZES GOG TO REVISE TAXES AND OTHER CONDITIONS OF AGREEMENT AT SPECIFIED INTERVALS WITH STATED PURPOSE.
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POSE OF KEEPING AGREEMENT IN LINE WITH JAMAICA.

3. FEBRUARY 16, 1965 AGREEMENT BETWEEN REYNOLDS AND GOG
CONTAINS DETAILED PROVISION ON INCOME TAX CALCULATION AND
PARAGRAPH 1 STATES:

QUOTE

1. THE GOVERNMENT UNDERTAKES NOT TO LEVY ANY TAXES OR TO
INTRODUCE ANY NEW TAX OR BURDEN OR TO VARY THE RATE OF
ANY TAX IN SUCH A MANNER AS WOULD RESULT IN DISCRIMINATION
AGAINST THE BAUXITE INDUSTRY OR THE COMPANY:

PROVIDED THAT THE SPECIAL LEVIES ON THE BAUXITE INDUSTRY,
THAT IS TO SAY, THE ROYALTY AND THE EXPORT DUTY, SHALL CONTINUE
UNCHANGED AT THEIR CURRENT RATES FOR A PERIOD OF 25
YEARS COMMENCING FROM JANUARY 1, 1965.

4. JANUARY 16, 1965 LETTER FROM REYNOLDS METALS COMPANY
(V-P WALTER RICE) TO MINISTER OF FINANCE READS:

QUOTE

YOU HAVE REQUESTED THAT I WRITE TO YOU CONCERNING THE
POSSIBILITY THAT UNFORSEEN CIRCUMSTANCES NOT CONTEMPLATED BY THE
AGREEMENT MIGHT ARISE DURING THE 25 YEAR TERM, RESULTING IN
THE BAUXITE PRICES OF THE AGREEMENT BEING SUBSTANTIALLY AND
UNREASONABLY LOW WITH RESPECT TO TRENDS (RELATIVE CHANGES) IN
BAUXITE PRICES IN JAMAICA. UNDER SUCH CIRCUMSTANCES, WE WOULD
BE WILLING TO DISCUSS WITH YOU REVISION OF THE PRICE FORMULA
AT THE END OF THE 7TH, 12TH, 17TH AND 22ND YEARS TO BRING SUCH
PRICES IN LINE WITH TRENDS (RELATIVE SUBSTANTIAL CHANGES) IN
BAUXITE PRICES IN JAMAICA, PROVIDED THAT SUCH REVISION SHALL BE
WITHIN THE FRAMEWORK OF BRITISH GUIANA AND U.S.A. LAWS DESIGNED
TO PREVENT DOUBLE TAXATION AND NOT OTHERWISE DETRIMENTAL TO
THE COMPANY. UNQUOTE

5. FEBRUARY 16, 1965 EXCHANGE OF SIDE LETTERS CONTAINS REQUEST
FROM MINISTRY OF FINANCE THAT REYNOLDS ATTORNEY CONFIRM THAT
JANUARY 16 LETTER "IS CONNECTED WITH THE AGREEMENT AND CONSTITUTES
A BINDING LEGAL OBLIGATION ON THE PART OF THE COMPANY TO
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REVIEW AND REVISE THE PRICE FORMULA AT THE TIMES AND IN THE CIR-
CUMSTANCES SET OUT IN THAT LETTER." C. LLOYD LUCKHOO SO CONFIRMED
ON BEHALF OF REYNOLDS.

6. OPIC POUCHING PHOTOCOPIES OF THESE DOCUMENTS TO EMBASSY.

7. WHILE THESE DOCUMENTS LEAVE PLENTY OF ROOM FOR ARGUMENT
OVER INTERPRETATION, AT LEAST THESE POINTS CAN BE MADE: (A) RE

NEGOTIATION RATHER THAN RIGHT TO REVISE UNILATERALLY IS
CONTEMPLATED; (B) REYNOLDS APPROACH TO NEGOTIATIONS (E.G.
STRESSING JAMAICA/GUYANA COST DIFFERENTIALS) SEEMS WITHIN SPIRIT
OF RENEGOTIATION PROVISIONS, WHICH STRICTLY SPEAKING APPEAR NOT
TO BE PRESENTLY APPLICABLE; (C) LEGISLATIVELY IMPOSED JAMAICAN
LEVY, PAID UNDER PROTEST AND SUBJECT TO ICSID CHALLENGE IS HARDLY
A DIFINITIVE INDICATION OF BAUXITE PRICING. KISSINGER

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Message Attributes

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